

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

NATIONAL ASSOCIATION FOR GUN  
RIGHTS, INC., *et al.*,

Plaintiffs,

v.

MERRICK GARLAND, IN HIS OFFICIAL  
CAPACITY AS ATTORNEY GENERAL  
OF THE UNITED STATES, *et al.*,

Defendants.

Case No. 4:23-cv-00830-O

**NOTICE OF ADMINISTRATIVE HEARING**

Defendants respectfully submit this Notice to inform the Court of an administrative hearing scheduled for September 18, 2024, regarding the application of Rare Breed Firearms, LLC (“Rare Breed”) and Lawrence DeMonico for a federal firearms license as a manufacturer of firearms other than destructive devices (FFL Application Number: 5-74-453-07-PA-14130). The United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Houston Field Division issued its Notice of Denial on May 20, 2024, based on its belief that the applicant (Rare Breed) and its President and sole responsible person (DeMonico) did not meet the criteria for licensing pursuant to 18 U.S.C. § 923(d)(1)(C) and 27 C.F.R. § 478.47(b)(3). Specifically, that official relied on the findings of the District Court in *United States v. Rare Breed Triggers, LLC*, 690 F. Supp. 3d 51 (E.D.N.Y. 2023), to conclude that: (1) DeMonico possessed and/or transferred machineguns in willful violation of 18 U.S.C. § 922(o); (2) DeMonico transported machineguns in interstate ecommerce without being a licensed importer, manufacturer, dealer, or collector, in

willful violation of 18 U.S.C. § 922(a)(4); and, (3) Rare Breed aided and abetted Rare Breed Triggers, LLC, DeMonico, and others to possess and/or transfer machineguns in willful violation of 18 U.S.C. §§ 2 and 922(o). *See* 18 U.S.C. § 923(d)(1)(C) (providing that a condition for licensure is that “the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder”). Rare Breed and DeMonico requested an administrative hearing regarding the denial of the application for a federal firearms license, as provided by 18 U.S.C. § 923(f)(2) and 27 C.F.R. 478.72. That hearing is scheduled for September 18, 2024, and was set prior to this Court’s ruling on the parties’ cross-motions for summary judgment.

In a letter dated August 16, 2024, counsel for Rare Breed and DeMonico requested that the denial “be reversed” and that a license “be issued without the need for a hearing.” Counsel for Rare Breed and DeMonico claimed that “it is quite reasonable to assume” that ATF refusing to reconsider denial of the license “would be seen as a violation of the court’s order” in the above-captioned action.<sup>1</sup>

Defendants therefore submit this Notice to explain that this Court’s orders, ECF Nos. 100, 101, and 112, do not preclude holding the scheduled hearing, and moreover do not preclude further consideration of Rare Breed and DeMonico’s application for a federal firearms license. First, the grant or denial of the requested license does not “interfer[e] with the possession, sale, manufacture, transfer, or exchange of FRTs” at issue in this proceeding, ECF No. 101 at 2, because Rare Breed and DeMonico have applied for a license as a manufacturer of firearms other than destructive devices. Such a license authorizes manufacturing of certain firearms, but does not apply to

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<sup>1</sup> ATF will separately respond to this letter to indicate that the September 18, 2024 hearing will proceed as scheduled.

manufacturing of devices like the FRTs-15 or WOT if those devices are not machineguns, as no license is required to manufacture unregulated firearms components.

In addition, while this Court’s final judgment bars ATF from “implementing or enforcing” its “expanded definition of ‘machinegun’ to FRTs” in a variety of specified ways, including by “[i]nitiating or pursuing civil proceedings for possessing, selling, or manufacturing FRTs based on the claim that FRTs are machineguns,” ECF No. 101 at 1-2, the license application does not implicate this aspect of the judgment. The administrative hearing is not an enforcement action brought by Defendants; Rare Breed and DeMonico initiated the license application and further pursued the process by requesting an administrative hearing. And as noted, the initial denial was based on the findings of a separate federal district court that Rare Breed and DeMonico likely violated the Gun Control Act of 1968, as amended.

In any event, Rare Breed and DeMonico are enjoined from “engaging in any sales of the FRT-15, the Wide Open Trigger, forced-reset triggers, and other machinegun conversion devices” under the injunction issued by the Eastern District of New York (“EDNY”). *Rare Breed Triggers, LLC*, 690 F. Supp. 3d at 123. This Court has emphasized that its orders do not “interfere with other courts, such as the Eastern District of New York’s civil jurisdiction over the Rare Breed Parties,” *id.* at 2, and this Court’s orders did not (and could not) vacate the findings of the EDNY court that the initial denial relied on. As such, ATF’s further consideration of Rare Breed and DeMonico’s application, including through the hearing those parties requested, is not prohibited by the relief afforded by this Court.

DATED: September 6, 2024

Respectfully submitted,

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/s/ Alexander W. Resar

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**Certificate of Service**

On September 6, 2024, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Alexander W. Resar